UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:23-cv-199-KDB

(5:21-cr-79-KDB-DCK-1)

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ORDER
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THIS MATTER is before the Court on Petitioner's pro se "Notice of Amended Complaint Filed as a Matter of Course (Fed. R. Civ. P. 15(a)(1))" [Doc. 2].

This action pursuant to 28 U.S.C. § 2255 was opened on December 14, 2023.¹ [Doc. 1]. The Petitioner has now filed the instant "Notice" [Doc. 2] in which he purports to amend his Motion to Vacate, along with an unverified "Amendment" [id. at 4-5], and supporting documents with handwritten notes [id. at 6-12].

The "Notice of Amended Complaint…" and its attachments will be stricken because the proposed Amendment is not verified (signed under penalty of perjury), it does not substantially follow the § 2255 form, and this appears to be an attempt to amend the Motion to Vacate in a piecemeal fashion. See 28 U.S.C. foll. § 2255, Rule 4(a)-(c).

¹ Petitioner certifies that he placed the Motion to Vacate in the prison mailing system on April 5, 2022, and he purports to have executed it on December 3, 2021. [Doc. 1 at 12]. However, the Motion to Vacate was post-marked on December 6, 2023, and the Court received it on December 14, 2023. [See Doc. 1-1].

The Petitioner may file a superseding Amended Motion to Vacate within 30 days of this Order, subject to all timeliness and procedural requirements. Should the Petitioner fail to comply, the Court will proceed on the original Motion to Vacate [Doc. 1].

IT IS, THEREFORE, ORDERED that:

- 1. Petitioner's "Notice of Amended Complaint Filed as a Matter of Course (Fed. R. Civ. P. 15(a)(1))" and its attachments [Doc. 2] are **STRICKEN**.
- 2. Petitioner may file a superseding Amended Motion to Vacate within **thirty** (**30**) **days** as descried in this Order, subject to all timeliness and procedural requirements.
- 3. Should the Petitioner fail to comply with this Order, the Court will proceed on the original Motion to Vacate [Doc. 1]
- 4. The Clerk is respectfully instructed to mail Petitioner a blank § 2255 form and a copy of this Order.

Signed: December 15, 2023

Kenneth D. Bell

United States District Judge